

REMARKS

This Amendment is responsive to the Office Action dated January 19, 2012. Applicant has amended claims 1, 22, 42, and 53. Claims 1–5, 7–26, and 28–67 will remain pending upon entry of this communication.

Interview Summary

In a telephonic interview initiated by Applicant and conducted on April 13, 2012, Applicant's representative, Jessica H. Kwak Rauckman (Reg. No. 58,975), discussed the rejection of the independent claims under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 6,510,347 to Borkan (hereinafter, "Borkan") with Examiner George Manuel. Examiner Manuel and Ms. Rauckman discussed amending the independent claims as shown above, to specify that the proximal and distal ends of a wire-like element are axially displaced from each other along the longitudinal axis of the lead body. Examiner Manuel agreed that this amendment would overcome the rejection of the claims based on Borkan.

No exhibits were introduced and no demonstrations were conducted during the telephonic interview. Applicant thanks Examiner Manuel for taking the time to discuss the application with Ms. Rauckman.

Allowable Subject Matter

In the Office Action, the Examiner objected to claims 3, 7, 11–21, 24, 32–41, 48–51, 55, 59, 60, and 62–67 as being dependent upon a rejected base claim, and indicated these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant thanks the Examiner for this indication of allowable subject matter, but respectfully declines to amend these claims into independent form at this time. As discussed in greater detail below, the independent claims are also allowable.

Claim Rejection Under 35 U.S.C. § 102

In the Office Action, claims 1, 2, 4, 5, 8–10, 22, 23, 25, 26, 28–31, 42–47, 52–54, 56–58, and 61 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 6,510,347 to Borkan (hereinafter, "Borkan").

As a preliminary matter, Applicant notes that the Office Action referred to features not recited in Applicant's claims, such as "first and second wire-like elements . . . , axially displaced."¹ Applicant believes that this reference was inadvertent, and assumes that the Examiner's analysis focused on the limitations recited in Applicant's claims.

Applicant respectfully traverses the rejection, particularly to the extent the rejection may be considered applicable to the amended claims. Borkan fails to disclose all of the elements of the claims, as amended, as required by 35 U.S.C. § 102(b), and there would have been no apparent reason for modification to Borkan include such features.

For example, Borkan fails to disclose or suggest the neurostimulation lead of Applicant's claim 1, as amended, which comprises a lead body having a proximal end and a distal end, and defining a longitudinal axis, a plurality of stimulation electrodes disposed adjacent the distal end of the lead body, and a fixation mechanism mounted to the lead body at a position between one of the electrodes and the proximal end of the lead body, the fixation mechanism including one or more wire-like elements that are expandable to fix the lead body at a tissue target site, where the position is axially displaced from the plurality of stimulation electrodes, and wherein proximal and distal ends of each of the one or more wire-like elements are mechanically coupled to the lead body, and, for each of the one or more wire-like elements, the proximal and distal ends of the wire-like element are axially displaced from each other along the longitudinal axis of the lead body.

In support of the rejection of claim 1, the Office Action characterized nitinol fixation devices 65 disclosed by Borkan as wire-like elements of a fixation mechanism mounted to a lead body. Even if this characterization were reasonable, an assertion with which Applicant does not necessarily agree, Borkan fails to disclose or suggest that proximal and distal ends of the nitinol fixation devices 65 are mechanically coupled to a lead body. For example, FIGS. 8 and 8A of Borkan illustrate nitinol fixation devices 65 and show that, rather than being mechanically coupled to a lead body, the proximal and distal ends of the fixation devices 65 in the Borkan device are free and positioned to deploy through openings 53 in a sheath 52. Moreover, the ends of the fixation devices 65 disclosed by Borkan are not axially displaced from each other along a longitudinal axis of a lead body, as required by claim 1. Therefore, the fixation devices 65 disclosed by Borkan cannot reasonably be characterized as the one or more wire-like elements of

¹ Office Action dated January 19, 2012, page 2.

Applicant's claim 1. For at least these reasons, Borkan fails to anticipate Applicant's claim 1, as amended, which specifies that proximal and distal ends of each of the one or more wire-like elements of a fixation mechanism are coupled to a lead body. Moreover, one having ordinary skill in the art would not have had any apparent reason to modify Borkan in or any of the art of record to arrive at Applicant's claimed invention.

For at least the reasons discussed above, independent claims 22, 42, and 53, as amended, are patentable over Borkan. The dependent claims, i.e., claims 2, 4, 5, 8–10, 23, 25, 26, 28–31, 43–47, 52, 54, 56–58, and 61, incorporate the requirements of the respective independent claims.² Accordingly, the dependent claims are likewise patentable.

Borkan fails to disclose each and every limitation set forth in claims 1, 2, 4, 5, 8–10, 22, 23, 25, 26, 28–31, 42–47, 52–54, 56–58, and 61. For at least this reason, Applicant's claims 1, 2, 4, 5, 8–10, 22, 23, 25, 26, 28–31, 42–47, 52–54, 56–58, and 61 are patentable over Borkan under 35 U.S.C. § 102(b). Applicant respectfully requests reconsideration and withdrawal of this rejection.

CONCLUSION

All claims in this application are in condition for allowance. Applicant does not acquiesce as to any assertion in the Office Action with respect to the cited art or to Applicant's claims. Applicant's silence with respect to any assertion in the Office Action should not be interpreted as Applicant's acquiescence thereto. Applicant reserves the right to comment further with respect to the applied references and any pending claim in a future Amendment, Response, or on appeal. Applicant respectfully requests reconsideration and prompt allowance of all pending claims.

Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date: April 19, 2012
SHUMAKER & SIEFFERT, P.A.
1625 Radio Drive, Suite 300
Woodbury, Minnesota 55125
Telephone: 651.286.8346
Facsimile: 651.735.1102

By: Jessica H. Kwak Rauckman/
Name: Jessica H. Kwak Rauckman, Reg No. 58,975

² 35 U.S.C. § 112, ¶ 4.